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UNCLAS TAIPEI 003728

SIPDIS

E.O. 12958: N/A

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SUBJECT: TAIWAN MULLING OVER THERMISTOR CLASSIFICATION

REF: SECSTATE 243653

11. Summary: AIT Econ Chief delivered reftel demarche to Ministry of Economic Affairs Vice Minister Steve Chen on November 17, 2004. Chen was familiar with the case and said that Taiwan has about a month before it would need to submit a report to the World Customs Organization. Apparently, Taiwan has yet to make a final determination on the proper classification of the Tyco thermistors. End Summary.

12. On November 17, 2004, AIT Econ Chief used a previously scheduled meeting with Ministry of Economic Affairs Vice Minister Chen Ruey-long (Steve Chen) to deliver reftel demarche regarding Tyco's appeal of Taiwan Customs' classification of its electronic thermistor devices. Even though we had not been able to give Chen advance notice of this topic, he was clearly familiar with the issues involved.

13. Citing the relevant Harmonized System tariff numbers from memory, he noted that the World Customs Organization had recommended that the devices be classified as resistors, but added that the WCO has some divergent views on this issue. As he explained it, the WCO recommends classifying the devices under HS 8533, but also believes that a case can be made for classifying them under HS 8536.

14. Chen said that he had chaired a recent meeting with the Ministry of Finance and Customs about Tyco's appeal of Customs' classification of the devices. Clearly aware of Taiwan's obligations to respond to WCO rulings, Chen said that he has asked Taiwan Customs to review the case. If Customs continues to believe that the devices should be classified as fuses rather than resistors, then he has requested Customs to prepare a report for the WCO explaining this decision. Chen said that Taiwan has a two month period in which to provide comments to WCO and has about one month left before the report is due. We expect that Taiwan will use the full two months to mull over this classification decision.

15. Finally, Chen noted that the issue is complicated by the fact that a Taiwan company has filed a case against Taiwan Customs over classification of the devices. He also noted that a fine of some type has been levied against Tyco and that Tyco believes the fine is unjustified.

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